

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY
AMERICAS (FKA BANKERS TRUST
COMPANY) and JP MORGAN CHASE
BANK in their separate capacities and as
agents for the pre- and post-petition lenders of
Fleming Companies, Inc.; GENERAL
ELECTRIC CAPITAL CORPORATION;
C&S WHOLESALE GROCERS, INC.; THE
POST-CONFIRMATION TRUST OF
FLEMING COMPANIES, INC.; ROBERT
KORS; CORE-MARK HOLDINGS INC. and
DOES 1 to 200

Defendants.

Case No. 01:07 CV 7634 (WHP)
ECF Case

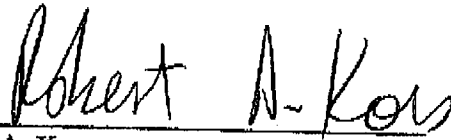
SUPPLEMENTAL AFFIDAVIT OF ROBERT A. KORS IN SUPPORT OF THE PCT'S AND
ROBERT KORS' MOTION FOR SUMMARY JUDGMENT

SUPPLEMENTAL AFFIDAVIT OF ROBERT A. KORS

I, ROBERT A. KORS, declare as follows:

1. This affidavit supplements the Affidavit of Robert A. Kors, dated February 26, 2008, which was submitted in support of the PCT's and Robert Kors' Motion for Summary Judgment.
2. This supplemental affidavit addresses some additional allegations Mr. Berry and his counsel, Mr. Hogan, have leveled against me in their Opposition to the Motion for Summary Judgment and in their supporting affidavits.
3. I did not sell, lend, donate, or otherwise transfer Mr. Berry's freight control software -- or any of Berry's software, for that matter -- to C&S Wholesale Grocers, Inc. or any of its affiliates or subsidiaries, either in my individual capacity or in my capacity as the principal of Castellammare Advisors LLC, the PCT Representative. I have never told either Mr. Berry or his counsel that I did so. Mr. Berry's assertion that I admitted knowing that C&S is using, or has ever used, Berry's software is false; I have never held that understanding, and I have therefore never expressed it to anyone.
4. I am not engaged in freight shipping activities of any kind, including shipping in "United States Non-Contiguous Domestic Trade," nor have I ever been. This is true for me personally and in my capacity as the principal of Castellammare Advisors LLC, the PCT Representative.
5. I have never had any involvement in changing freight tariffs (either in my individual capacity or in my capacity as the principal of Castellammare Advisors LLC, the PCT Representative), and I would not have the first idea of how to go about doing so. In fact, I had never even heard of the Matson website Mr. Berry references in his Opposition until Mr. Berry accused me in his Opposition of undertaking some clandestine activities in relation to it.

So sworn under penalty of perjury under the laws of the United States of America in Los Angeles, California, on March 27, 2008.

A handwritten signature in black ink, reading "Robert A. Kors". The signature is written in a cursive, slightly stylized font. The first name "Robert" is written in a larger, more prominent script, followed by "A." and "Kors".

Robert A. Kors

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CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

~~1~~
~~2~~
~~3~~
~~4~~
~~5~~
~~6~~

Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California

County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this

27th day of March, 2008, by
Date Month Year

(1) Robert Kors
Name of Signer

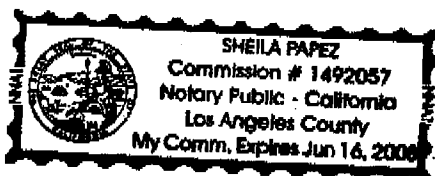
proved to me on the basis of satisfactory evidence
to be the person who appeared before me (.) (.)

(and

(2) Robert Kors
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me.)

Signature Sheila Pappe
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

*Though the information below is not required by law, it may prove
valuable to persons relying on the document and could prevent
fraudulent removal and reattachment of this form to another document.*

Further Description of Any Attached DocumentTitle or Type of Document: Supplemental AffidavitDocument Date: 3/27/08 Number of Pages: 2

Signer(s) Other Than Named Above: _____

